

# **ATTACHMENT A**

## **TERMINAL DISCLAIMERS**

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**TERMINAL DISCLAIMER TO OBIATE A PROVISIONAL DOUBLE PATENTING  
REJECTION OVER A PENDING SECOND APPLICATION**

Docket Number (Optional)

1190.09

In re Application of: Kenneth A. Martin

Application No.: 10/725.609

Filed: December 2, 2003

For: Perioperative Multivitamin Protein Bar For Use In Preparing An Individual For Fast Surgical Recovery

The owner, Kenneth A. Martin, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second Application Number 10/725.610, filed on December 2, 2003 of any patent on the pending second application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record.

Wendy Buskop 11-11-04  
Signature Date

Wendy K.B. Buskop  
Typed or printed name

(713) 403-7411  
Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this statement. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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2. ☒ The undersigned is an attorney or agent of record.

Wendy Buskop Nov 11 04  
Signature Date

Wendy K.B. Buskop

Typed or printed name

(713) 403-7411

Telephone Number

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PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Kenneth A. Martin

Group Art Unit: 1623

Serial No.: 10/725,609

Examiner: Peselev, Elli

Filed: December 2, 2003

Confirmation No.: 4969

For: PERIOPERATIVE MULTIVITAMIN  
PROTEIN BAR FOR USE IN PREPARING AN  
INDIVIDUAL FOR FAST SURGICAL  
RECOVERY

Attorney Docket No.: 1190.09

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

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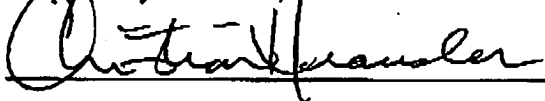
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AUTHORIZATION TO PAY FEES

The Commissioner is hereby authorized to charge \$110.00 (small entity status) for the filing of two terminal disclaimers and any other fee deficiencies associated with this filing to Deposit Account No 50-1313 in the name of Buskop Law Group. A duplicate copy of this transmittal is enclosed.

Date: 11/11/04

Respectfully submitted,



Christian Heausler  
Patent Attorney  
Reg. Number 50,771

Please mail correspondence to:  
Wendy K. B. Buskop  
Buskop Law Group, P.C.  
1717 St. James Place, Suite 500  
Houston, Texas 77056  
713.403.7411

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